



## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

#### **Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Purchases of Bank Checks and Drafts, Cashier's Checks, Money Orders, and Traveler's Checks.**

**AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comments on the proposed renewal, without change, of a currently approved information collection found in existing Bank Secrecy Act regulations. Specifically, the regulations require recordkeeping for the issuance or sale of bank checks and drafts, cashier's checks, money orders, and traveler's checks when the issuance or sale involves the use of currency in an amount between \$3,000 and \$10,000, inclusive. Although no changes are proposed to the information collection itself, this request for comments covers a future expansion of the scope of the annual hourly burden and cost estimate associated with these regulations. This request for comments is made pursuant to the Paperwork Reduction Act of 1995.

**DATES:** Written comments are welcome, and must be received on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION OF THIS DOCUMENT IN THE *FEDERAL REGISTER*.]

**ADDRESSES:** Comments may be submitted by any of the following methods:

- Federal E-rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN-2021-0001 and the specific Office of Management and Budget (OMB) control number 1506-0057.

• Mail: Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN-2021-0001 and OMB control number 1506-0057.

Please submit comments by one method only. Comments will also be taken into account in FinCEN's review of existing regulations, consistent with Treasury's 2011 Plan for Retrospective Analysis of Existing Rules. All comments submitted in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Regulatory Support Section at 1-800-767-2825 or electronically at [frc@fincen.gov](mailto:frc@fincen.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Statutory and Regulatory Provisions**

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Financial Transactions Reporting Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) (Public Law 107–56) and other legislation. The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, 31 U.S.C. 5311–5314 and 5316–5332, and notes thereto, with implementing regulations at 31 CFR Chapter X.

The BSA authorizes the Secretary of the Treasury, *inter alia*, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement anti-money laundering (AML) programs and compliance procedures.<sup>1</sup> Regulations

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<sup>1</sup> Section 358 of the USA PATRIOT Act added language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism. Section 6101 of the Anti-Money

implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.<sup>2</sup>

The BSA prohibits financial institutions from issuing any “bank check, cashier’s check, traveler’s check, or money order to any individual in connection with a transaction or group of such contemporaneous transactions which involves United States coins or currency (or such other monetary instruments as the Secretary may prescribe) in amounts or denominations of \$3,000 or more” unless the individual either has a verified transaction account with the financial institution or furnishes the financial institution with the information required by regulations and that information is verified and recorded by the financial institution; financial institutions must record the method of account verification or the information required to be furnished.<sup>3</sup> To implement these requirements, FinCEN issued a regulation requiring financial institutions to maintain records of the issuance or sale of bank checks and drafts, cashier’s checks, money orders, and traveler’s checks.<sup>4</sup> The regulation on its face applies to all financial institutions as defined in 31 CFR 1010.100(t). However, as a practical matter banks and money services businesses (MSBs) are the types of financial institutions most likely to be issuing or selling bank checks and drafts, cashier’s checks, money orders, and traveler’s checks.

Under 31 CFR 1010.415, financial institutions are required to maintain records of certain information related to the issuance or sale of bank checks and drafts, cashier’s checks, money orders, and traveler’s checks when the issuance or sale involves currency between \$3,000-\$10,000, inclusive, to any individual purchaser of one or more of these

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Laundering Act of 2020 (“the AML Act”) added language further expanding the scope of the BSA but did not disturb these longstanding purposes. The AML Act is Division F of Pub. L. 116-283 (January 1, 2021).

<sup>2</sup> Treasury Order 180-01 (re-affirmed Jan. 14, 2020).

<sup>3</sup> 31 U.S.C. 5325.

<sup>4</sup> 31 CFR 1010.415. This regulation was originally published in 1990 as 31 CFR 103.29. *See* Amendment to the Bank Secrecy Act Regulations Relating to Identification Required to Purchase Bank Checks and Drafts, Cashier’s Checks, Money Orders and Traveler’s Checks, 55 FR 20139 (May 15, 1990). It was modified slightly in 1994. *See* Amendments to the Bank Secrecy Act Regulations Relating to Identification Required to Purchase Bank Checks and Drafts, Cashier’s Checks, Money Orders, and Traveler’s Checks, 59 FR 52250 (October 17, 1994).

instruments. Under 31 CFR 1010.415(a)(1)(i), if the purchaser has a deposit account with the financial institution, the financial institution is required to maintain records of: (A) the name of the purchaser; (B) the date of purchase; (C) the type(s) of instrument(s) purchased; (D) the serial number(s) of each of the instrument(s) purchased; and (E) the amount in dollars of each of the instrument(s) purchased. Under 31 CFR 1010.415(a)(1)(ii), the financial institution must also verify that the individual is a deposit account holder or must verify the individual's identity.<sup>5</sup>

Under 31 CFR 1010.415(a)(2)(i), if the purchaser does not have a deposit account with the financial institution, the financial institution must maintain a record of: (A) the name and address of the purchaser; (B) the social security number of the purchaser, or if the purchaser is an alien and does not have a social security number, the alien identification number; (C) the date of birth of the purchaser; (D) the date of the purchase; (E) the type(s) of instrument(s) purchased; (F) the serial number(s) of the instrument(s) purchased; and (G) the amount in dollars of each of the instrument(s) purchased. Under 31 CFR 1010.415(a)(2)(ii), the financial institution must also verify the purchaser's name and address by examination of a document which is normally acceptable as a means of identification when cashing checks for nondepositors and which contains the name and address of the purchaser, and must record the specific identifying information.

Under 31 CFR 1010.415(b), financial institutions must treat contemporaneous purchases of the same or different types of instruments totaling \$3,000 or more as one purchase. Multiple purchases during one business day totaling \$3,000 or more must be

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<sup>5</sup> Verification may be either through a signature card or other file or record at the financial institution provided the deposit account holder's name and address were verified previously and that information was recorded on the signature card or other file or record; or by examination of a document which is normally acceptable as a means of identification when cashing checks for nondepositors and which contains the name and address of the purchaser. If the deposit account holder's identity has not been verified previously, the financial institution may only verify the deposit account holder's identity by examination of a document which is normally acceptable within the banking community as a means of identification when cashing checks for nondepositors and which contains the name and address of the purchaser, and must also record the specific identifying information (e.g., State of issuance and number of driver's license).

treated as one purchase if an individual employee, director, officer, or partner of the financial institution has knowledge that these purchases have occurred.

Under 31 CFR 1010.415(c), financial institutions must retain all required records for a period of five years and make those records available to the Secretary upon request at any time.

## **II. Paperwork Reduction Act of 1995 (PRA)<sup>6</sup>**

Title: Purchases of bank checks and drafts, cashier's checks, money orders, and traveler's checks (31 CFR 1010.415).

OMB Control Number: 1506-0057.

Report Number: Not applicable.

Abstract: FinCEN is issuing this notice to renew the OMB control number for the recordkeeping requirement for the issuance or sale of bank checks and drafts, cashier's checks, money orders, and traveler's checks when the issuance or sale involves the use of currency in an amount between \$3,000 and 10,000, inclusive.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Type of Review:

- Renewal without change of a currently approved information collection.
- Propose for review and comment a renewal of the portion of the PRA burden that has been subject to notice and comment in the past (the "traditional annual PRA burden").
- Propose for review and comment a future expansion of the scope of the PRA burden (the "future annual PRA burden").

Frequency: As required.

Estimated Number of Respondents: 15,677 financial institutions.<sup>7</sup>

Estimated Recordkeeping Burden: 117,579 burden hours

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<sup>6</sup> Public Law 104-13, 44 U.S.C. 3506(c)(2)(A).

<sup>7</sup> Table 1 below sets forth a breakdown of the types of financial institutions covered by this notice.

Part 1 of this notice describes the breakdown of the estimated number of financial institutions, by type. Part 2 proposes for review and comment a renewal of the estimate of the traditional annual PRA hourly burden, which includes a scope and methodology similar to the estimate used in the past, with the incorporation of a more robust cost estimate. The scope and methodology used in the past was limited to an estimate of the burden of the overall regulation and did not assign or categorize burden estimates according to the specific steps to create and maintain records for issuances or sales of bank checks and drafts, cashier's checks, money orders, and traveler's checks between \$3,000-\$10,000, inclusive, to deposit accountholders or other customers. Part 3 of this notice proposes for review and comment a methodology for a future estimate of an annual PRA burden. The estimate would include the PRA hourly burden and cost of creating and maintaining records related to issuances or sales of bank checks and drafts, cashier's checks, money orders, and traveler's checks between \$3,000 and 10,000, based on estimates of the volume of these instruments issued or sold, the number of depository accountholder or other customers purchasing these instruments per year, and the average time to verify the identity of depository accountholder and other customers. Finally, Part 4 solicits input from the public about: (a) the accuracy of the traditional annual PRA burden estimate; (b) the more granular calculation needed to establish a future annual PRA burden; (c) the criteria, metrics, and most appropriate questions FinCEN should consider when conducting research to obtain the information on which to base an estimate of the future annual PRA burden; and (d) any other comments about the regulations and the current and proposed future hourly burden and cost estimates of these requirements.

#### **Part 1. Breakdown of the financial institutions covered by this notice**

The breakdown of financial institutions, by type, covered by this notice is reflected in Table 1 below:

**Table 1. Breakdown of financial institutions covered by this notice, by type of financial institution**

Type of Financial Institution	Number of Financial Institutions
Banks	11,161 <sup>8</sup>
Issuers/Sellers of Money Orders	4,353 <sup>9</sup>
Issuers/Sellers of Traveler's Checks	163 <sup>10</sup>
<b>Total Number of Financial Institutions</b>	<b>15,677</b>

## **Part 2. Traditional annual PRA burden and cost**

The scope of the traditional annual PRA burden and cost estimates in this renewal encompasses all of the recordkeeping requirements for the issuance or sale of bank checks and drafts, cashier's checks, money orders, and traveler's checks between \$3,000-\$10,000, inclusive. FinCEN continues to estimate the annual hourly burden of creating and maintaining records for the issuance or sale of bank checks and drafts, cashier's checks, money orders, or traveler's checks to individual purchasers when the sale involves currency between \$3,000-\$10,000, inclusive, at seven and a half hours per covered financial institution, irrespective of the volume of such transactions. This estimate covers the burden of (i) verifying the identity of depository account holder and other customers purchasing bank checks and drafts, cashier's checks, money orders, or traveler's checks when the issuance or sale involves currency between \$3,000-\$10,000,

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<sup>8</sup> According to the Federal Deposit Insurance Corporation (FDIC) there were 5,103 FDIC-insured banks as of March 31, 2020. According to the Federal Reserve Board (FRB), there were 203 other entities supervised by the FRB, as of June 16, 2020, that fall within the definition of bank (20 Edge Act institutions, 15 agreement corporations (as defined in 12 CFR 28.2) and 168 foreign banking organizations). According to the National Credit Union Administration there were 5,236 federally regulated credit unions as of December 31, 2019. Approximately 297 state-chartered non-depository trust companies, 228 non-federally insured credit unions, 12 non-federally insured state-chartered banks and savings and loan or building and loan associations, 1 private bank, 52 international financial entities, and 29 international banking entities—all of which are required to implement written AML program as a result of a final rule issued on September 15, 2020 (85 FR 57129)—are also required to keep the records described in this notice.

<sup>9</sup> This number is derived from self-reported information in MSB registrations submitted to FinCEN. FinCEN's MSB registration database available at <https://www.fincen.gov/msb-state-selector>.

<sup>10</sup> *Id.*

inclusive, and (ii) creating and maintaining records of certain information for a minimum of five years to be made available to the Secretary upon request.<sup>11</sup>

The estimated burden associated with each portion of the traditional annual PRA estimate is as follows:

**Table 2 – Burden associated with maintaining recordkeeping requirements for issuance/sale of bank checks and drafts, cashier’s checks, money orders, or traveler’s checks**

<b>Type of Financial Institution</b>	<b>Number of Financial Institutions</b>	<b>Time Per Financial Institution</b>	<b>Total Burden Hours</b>
Banks	11,161	7.5 hour	83,708
Issuers/Sellers of Money Orders	4,353	7.5 hour	32,648
Issuers/Sellers of Travel Checks	163	7.5 hour	1,223
<b>Total Burden Hours</b>			<b>117,579</b>

To calculate the hourly costs of the burden estimate, FinCEN identified two roles and corresponding staff positions involved in verifying documentation and maintaining records for the issuance or sale of bank checks and drafts, cashier’s checks, money orders and traveler’s checks between \$3,000-\$10,000, inclusive: (i) direct supervision (reviewing operational-level work and cross-checking all or a sample of the work product against supporting documentation) and (ii) clerical work (engaging in verification and recordkeeping).

FinCEN calculated the fully-loaded hourly wage for each of these two roles by using the median wage estimated by the U.S. Bureau of Labor Statistics (BLS),<sup>12</sup> and computing an additional benefits cost as follows:

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<sup>11</sup> Some of this estimated burden, particularly with respect to depository customers of a bank, may duplicate burden estimated in connection with a bank’s compliance with its ordinary customer identification program obligations under 31 CFR 1020.220. FinCEN plans to take this other burden into account in future estimates.

<sup>12</sup> The U.S. Bureau of Labor Statistics, Occupational Employment Statistics-National, May 2019, available at <https://www.bls.gov/oes/tables.htm>. The most recent data from the BLS corresponds to May 2019. For



**Table 3. Fully-loaded hourly wage by role and BLS job position for all financial institutions covered by this notice**

Role	BLS-Code	BLS-Name	Median Hourly Wage	Benefit Factor	Fully-loaded Hourly Wage
Direct supervision	13-1041	Compliance Officer	\$33.20	1.50	\$49.80
Clerical work (research, review, and recordkeeping)	43-3099	Financial Clerk	\$20.40	1.50	\$30.60

FinCEN estimates that, *in general and on average*,<sup>13</sup> each role would spend different amounts of time on each portion of the traditional annual PRA burden. For verifying the identity of the purchaser and maintaining the recordkeeping requirement, the estimated cost of the hourly burden is \$33.00, per the calculations in Table 4 below:

**Table 4. Weighted average hourly cost of maintaining recordkeeping requirements**

Direct Supervision		Clerical Work		Weighted Average Hourly Cost
% Time	Hourly Cost	% Time	Hourly Cost	
10%	\$4.98	90%	\$27.54	\$33.00*

(\*) \$32.52 rounded to \$33.00

The total estimated cost of the traditional annual PRA burden is \$3,880,107 as reflected in Table 5 below:

**Table 5. Total cost of traditional annual PRA burden**

Steps	Hourly Burden	Hourly Cost	Total Cost
Verifying and maintaining records (divided between the roles listed in Table 4)	117,579 <sup>14</sup>	\$33 <sup>15</sup>	\$3,880,107
<b>Total Cost</b>			<b>\$3,880,107</b>

### Part 3. Future annual PRA burden

the benefits component of total compensation, see U.S. Bureau of Labor Statistics, Employer's Cost per Employee Compensation as of December 2019, available at <https://www.bls.gov/news.release/ecec.nr0.htm>. The ratio between benefits and wages for financial activities is \$15.95 (hourly benefits)/\$32.05 (hourly wages) = 0.50. The benefit factor is 1 plus the benefit/wages ratio, or 1.50. Multiplying each hourly wage by the benefit factor produces the fully-loaded hourly wage per position.

<sup>13</sup> By "in general," FinCEN means without regard to outliers. By "on average," FinCEN means the mean of the distribution of each subset of the population.

<sup>14</sup> See Table 2.

<sup>15</sup> See Table 4.

In the future, FinCEN intends to be more granular in estimating the annual PRA burden, by including the estimated hourly burden and cost behind the individual steps required to maintain records for the issuance or sale of bank checks and drafts, cashier's checks, money orders, and traveler's checks between \$3,000-\$10,000, inclusive, to depository accountholder and other customers. In particular, FinCEN seeks to include in this calculation the number of these instruments issued or sold per financial institution annually, the number of depository accountholder and other customers purchasing these instruments per year, and the average time per financial institution to verify the identity of depository accountholder and other customers. FinCEN does not have the information to estimate the annual number of instruments issued or sold to depository accountholder and other customers that trigger the recordkeeping requirements being renewed in this notice. For that reason, FinCEN is relying on estimates used in prior renewals of this OMB control number and the applicable regulations. FinCEN further recognizes that after receiving public comments as a result of this notice, future traditional annual PRA hourly burden and cost estimates may vary significantly from those contained in this document. FinCEN intends to conduct more granular studies of the actions included in the proposed scope of the annual PRA burden in the near future, to arrive at more accurate estimates of net BSA hourly burden and cost.<sup>16</sup> The data obtained in these studies also may result in a significant change from the estimated traditional annual PRA burden.

Estimated Recordkeeping Burden: The average estimated annual PRA burden, measured in hours per respondent, is seven and a half hours.

Estimated Number of Respondents: 15,677, as set out in Table 1.

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<sup>16</sup> Net hourly burden and cost are the burden and cost a financial institution incurs to comply with requirements that are unique to the BSA, and that do not support any other business purpose or regulatory obligation of the financial institution. Burden for purposes of the PRA does not include the time and financial resources needed to comply with an information collection, if the time and resources are for things a business (or other person) does in the ordinary course of its activities if the agency demonstrates that the reporting activities needed to comply are usual and customary. 5 CFR 1320.3(b)(2).

Estimated Total Annual Recordkeeping Burden: The estimated total annual PRA burden is 117,579 hours, as set out in Table 2.

Estimated Total Annual Recordkeeping Cost: The estimated total annual PRA cost is \$3,880,107, as set out in Table 5.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years.

#### **Part 4 – Request for Comments**

*a) Specific request for comments on the traditional annual PRA hourly burden and cost.*

FinCEN invites comments on any aspect of the traditional annual PRA burden, as set out in Part 2 of this notice. In particular, FinCEN seeks comments on the adequacy of: (i) FinCEN’s assumptions underlying its burden estimate; (ii) the estimated number of hours required by each portion of the burden; and (iii) the organizational roles of the financial institution engaged in each portion of the burden, the roles’ estimated hourly remuneration, and the estimated proportion of time spent by each role on the requirements. FinCEN encourages commenters to include any publicly available sources for alternative estimates or methodologies.

*b) Specific request for comments on the proposed criteria for determining the scope of a future annual PRA hourly burden and cost estimate.*

FinCEN invites comments on any aspect of the criteria for an estimate of the future annual PRA burden, as set out in Part 3 of this notice.

*c) Specific request for comments on the appropriate criteria, methodology, and questionnaire required to obtain information to more precisely estimate the future annual PRA hourly burden and cost.*

FinCEN invites comments on the most appropriate and comprehensive means to question financial institutions about the annual hourly burden and cost attributable solely to creating and maintaining records for the issuance or sale of bank checks and drafts, cashier's checks, money orders and traveler's checks between \$3,000-\$10,000, inclusive (i.e., the hourly burden and cost of complying with the recordkeeping requirements imposed exclusively by the BSA; the volume of these instruments issued or sold; the number of depository account holder and other customers purchasing these instruments per year; and the average time to verify the identity of depository account holder and other customers).

The future annual PRA hourly burden and cost estimate of the recordkeeping necessary to comply with maintaining records for issuance or sale of bank checks and drafts, cashier's checks, money orders and traveler's checks between \$3,000-\$10,000, inclusive, to any individual purchaser must take into consideration only the effort involved in obtaining those data elements that are used exclusively for complying with requirements under 31 CFR 1010.415. FinCEN seeks comments from the public regarding any questions we should consider posing in future notices, in addition to the specific questions for comment outlined directly below. Also, due to the evident difficulty involved in estimating the volume of bank checks and drafts, cashier's checks, money orders and traveler's checks issued or sold that involve currency between \$3,000-\$10,000, inclusive, the annual number of depository account holder and other customers purchasing these instruments, and the average time to verify the identity of depository account holder and other customers, FinCEN welcomes any suggestions as to how to derive these estimates by using publicly available financial information.

*d) Specific questions for comment associated with recordkeeping requirements for issuance or sale of bank checks and drafts, cashier's checks, money orders and*

*traveler's checks that involve currency between \$3,000-\$10,000, inclusive, by depository accountholder and other customers:*

- Annually, on average, how often does your financial institution issue or sell bank checks and drafts, cashier's checks, money orders, or traveler's checks that involve currency between \$3,000-\$10,000, inclusive?
- On average, how long does it take your institution to create a record for the issuance or sale of bank checks and drafts, cashier's checks, money orders, or traveler's checks that involve currency between \$3,000-\$10,000, inclusive?
- On average, what is the cost to maintain records of the issuance or sale of bank checks and drafts, cashier's checks, money orders, or traveler's checks that involve currency between \$3,000-\$10,000, inclusive?
- On average, what is the amount of time and cost to verify and maintain a record for depository customers that purchase bank checks and drafts, cashier's checks, money orders, or traveler's checks that involve currency between \$3,000-\$10,000, inclusive, for a period of five years?
- On average, what is the amount of time and cost to verify and maintain a record for customers who do not hold depository accounts that purchase bank checks and drafts, cashier's checks, money orders, or traveler's checks that involve currency between \$3,000-\$10,000, inclusive, for a period of five years?

*e) General request for comments.*

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (i) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (ii) the accuracy of the agency's estimate of the

burden of the collection of information; (iii) ways to enhance the quality, utility, and clarity of the information to be collected; (iv) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (v) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

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Kenneth A. Blanco  
*Director*  
*Financial Crimes Enforcement Network*

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